

PUBLIC HEARING—August 18, 1965

Appeal #8330 Max Sittenfeld, et al. appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. Harps dissenting the following Order was entered on August 25, 1965:

ORDERED:

That the appeal for a variance from the FAR requirements of the SP District to permit erection of apartment house with an FAR in excess of 6.0 and for roof structures in accordance with the provisions of Section 3308 of the Zoning Regulations at 411-417 - 4th St. and 414-426 - 3rd St. N.W., lots 802 thru 805, inc. and 814-820 inc., square 532, be denied.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's property, which is located in the SP District, has a frontage of 153.70 feet on 3rd Street and 102.60 feet on 4th Street being an L-shaped piece of property. The property contains an area of approximately 23,880 square feet.

(2) Appellant proposes to erect on this property a ten-story apartment building with roof structures in accordance with Section 3308 of the Zoning Regulations.

(3) Appellant submitted three schemes of proposed building, namely, Scheme "B" with a total of 177 units; Scheme "C" with a total of 178 units and Scheme "D" with a total of 185 units.

(4) The building originally proposed, known as Scheme "B" complied with all zoning requirements but was rejected by the Fine Arts Commission who asked that the building be redesigned to close up the facade along 4th Street. The Fine Arts Commission later approved appellant's Scheme "C-6". Appellant contends that he suffers a substantial hardship because of the added cost incurred and the loss of income resulting under Scheme "C-6". To overcome this loss in revenue appellant proposes to add additional units and extend the building which will involve one point of additional FAR over the 6.0 FAR permitted by the Zoning Regulations.

(5) Exhibit #9 is a statement of Julian E. Berla, A.I.A. who states that appellant would suffer a substantial hardship if required to limit the building to an FAR of 6.0 and meet the recommendations of the Fine Arts Commission.

(6) Exhibit #10 is a statement of Abe Zuckerman, builder, who states that Scheme "B" meets all requirements of the Zoning Regulations but because of an underground sewer added costs are incurred in the amount of \$22,200 due to the eight-foot sewer line, and that the added cost for Scheme "C-6" equals \$36,270.

(7) Exhibit #11 is a statement of Joseph C. Murray, Vice-President of Shannon and Luchs, realtors, who states that he has reviewed plans designated

"B", "C-6" and "D" and set the rental per unit for each building planned. He states that in his opinion rental rate per unit would be greater under scheme "B" as it provides a more desirable apartment plan with open view for most apartment units. His work computation sheet is attached to Exhibit #11.

(8) Exhibit #12 is a statement of Mr. John Donahue, a real estate appraiser, who states that in his opinion the owner will suffer a hardship if required to erect the building shown in Scheme "C-6" as compared with Scheme "B".

(9) There was no objection to the granting of this appeal registered at the public hearing.

OPINION:

It is the opinion of the Board that appellant has failed to prove a hardship within the provisions of Section 8207.11 of the Zoning Regulations. The Board was unable to find and appellant was unable to prove that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the property that compliance with regulation requirements would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner. Appellant's property has no undue narrowness, shallowness, shape, or extraordinary topographic conditions.

It is our opinion that even though another agency of the Government, namely, the Fine Arts Commission, requires a different design in the building than proposed by appellant, is not sufficient basis for this Board to grant additional FAR as requested by the appellant. It is our opinion and contention that appellant can develop this property in accordance with its zoned purpose, namely, SP with a maximum FAR of 6.0.

In view of the above it is our further opinion that this relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

In view of the denial of this appeal it is unnecessary for the Board to rule upon the question of the roof structures.